

## **CHAPTER 6**

# **CONSULTATION AND COORDINATION**

---

### **INTRODUCTION**

Prior to the preparation of this EA, input was solicited and incorporated from a broad range of cooperating and consulting agencies and the public. This chapter summarizes the public involvement program and key issues raised by the public and interest groups. This chapter also addresses the manner in which federal statutes, implementing regulations, and executive orders potentially applicable to implementation of the CVPIA have been addressed. The conclusions of compliance are based on the Environmental Consequences presented in Chapter 4. The compliance summaries apply only to the alternatives discussed in this EA and not the development of concurrent CVPIA implementation programs.

### **PUBLIC INVOLVEMENT**

Reclamation started the preparation of this EA with scoping meetings. Scoping served as a fact-finding process to identify public concerns and recommendations about the long-term contract renewal issues that would be addressed in this EA and the scope and level of detail for analyses. Scoping activities began in October 1998 after a Notice of Intent to prepare environmental documentation for long-term contract renewals was filed in the Federal Register. The scoping period formally ended in January 1999 and the *Scoping Report* was released in the summer of 1999.

Public input continued during long-term contract negotiations to define the contract language. Discussions also were held with the CCWD during the preparation of this document.

At public scoping meetings, Reclamation provided information about the long-term contract renewal process and solicited public comments, questions, and concerns. At these meetings, participants had numerous comments and questions about how important issues would be considered both in the CVPIA PEIS and during the long-term contract renewal process. The majority of the comments received during the scoping process addressed the needs assessment methodology to be used as part of the long-term contract renewal process. Contract renewal negotiation issues also were addressed. The fewest number of comments addressed environmental issues.

Reclamation received numerous comments about issues to be considered in this EA and methodologies for analyzing impacts. Comments concerning the development of alternatives were considered in the formation of the alternatives analyzed in this EA. It was determined that the description of the alternatives in this EA largely would focus on the contract provisions. Comments on methods used to address impacts were considered in the development of the Environmental Consequences section of this EA. The impact analysis focused on comparing the alternatives with the CVPIA PEIS Preferred Alternative (which is the No Action Alternative in this EA) rather than with existing conditions.

## **CONSULTATION WITH OTHER AGENCIES**

This EA was prepared in accordance with the policies and regulations for the following issues. These issues and how compliance was addressed in this EA are briefly discussed in the remaining sections of this chapter. Work is continuing on each of these requirements. As individual projects are implemented, compliance requirements will be considered.

- National Environmental Policy Act
- California Environmental Quality Act
- Endangered Species Act
- Fish and Wildlife Coordination Act
- National Historic Preservation Act
- Indian Trust Assets
- Indian Sacred Sites on Federal Land
- Environmental Justice
- State, Area-wide, and Local Plan and Program Consistency
- Floodplain Management
- Wetlands Protection
- Wild and Scenic Rivers Act
- Farmland Protection Policy Act and Farmland Preservation
- Safe Drinking Water Act
- Clean Air Act
- Clean Water Act

## **NATIONAL ENVIRONMENTAL POLICY ACT**

This EA was prepared pursuant to regulations implementing the National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*). NEPA provides a commitment that federal agencies will consider the environmental effects of their actions. This EA provides information regarding the No Action Alternative, the alternatives, and the environmental impacts of the alternatives.

The Revised Draft EA/Draft FONSI was made available to the public on December 14, 2004. The comment period closed on January 12, 2005. No comments were received.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Implementation, funding, and permitting actions carried out by state and local agencies must comply with the California Environmental Quality Act (CEQA). The CEQA requirements are similar to NEPA requirements. This EA could be used as a basis for preparation of a CEQA document.

## **ENDANGERED SPECIES ACT**

Reclamation has prepared a biological assessment to determine if the alternatives will affect listed threatened and endangered species. The biological assessment addresses all species affected by the CVP operation in the CCWD service area. The biological assessment does not indicate that the

proposed action is likely to adversely affect a listed species. However, if it is determined that the proposed action may affect a listed species, Reclamation will request formal consultation pursuant to the ESA.

Consultation with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) has been initiated by Reclamation. USFWS and NOAA concurrences with the determinations of the BA would mean that the long-term contract renewal may affect, but is not likely to adversely affect special-status species and designated or proposed critical habitats of those species.

Consultation with the National Oceanic and Atmospheric Administration (NOAA) and USFWS must be completed before Reclamation can approve Findings for a proposed action. Reclamation must sign the Finding (FONSI) before long term renewal contracts can be signed by Reclamation.

## **FISH AND WILDLIFE COORDINATION ACT**

The Fish and Wildlife Coordination Act (FWCA) requires that Reclamation consult with federal and state fish and wildlife agencies on all water development projects that could affect biological resources. The implementation of the CVPIA, of which this action is a part, has been jointly analyzed by Reclamation and the Service, and the CVPIA is being jointly implemented. This continuous consultation with, and consideration of the views of, the Service in addition to its review of this document and consideration of its comments satisfies any applicable requirements of the FWCA.

## **NATIONAL HISTORIC PRESERVATION ACT**

Section 106 of the NHPA requires that federal agencies evaluate the effects of federal undertakings on historical, archeological, and cultural resources and afford the Advisory Council on Historic Preservation opportunities to comment on the proposed undertaking. The first step in the process is to identify cultural resources included on (or eligible for inclusion on) the NRHP that are located in or near the project area. The second step is to identify the possible effects of proposed actions. The lead agency must examine whether feasible alternatives exist that would avoid such effects. If an effect cannot reasonably be avoided, measures must be taken to minimize or mitigate potential adverse effects.

During preparation of this EA, information from the State Clearinghouse was collected. The County and city governments in Contra Costa County have initiated separate consultations with respect to their land use planning activities. It was determined by the SHPO that compliance with Section 106 should be coordinated on a project-specific basis.

## **INDIAN TRUST ASSETS**

The United States Government's trust responsibility for Indian resources requires Reclamation and other agencies to take measures to protect and maintain trust resources. These responsibilities include taking reasonable actions to preserve and restore tribal resources. Indian trust assets are legal interests in property and rights held in trust by the United States for Indian tribes or individuals. Indian reservations, rancherias, and allotments are common Indian trust assets. During

preparation of this EA, it was determined, based upon information provided by Reclamation that no Indian trust assets exist within the CCWD service area.

## **INDIAN SACRED SITES ON FEDERAL LAND**

Executive Order 13007 provides that, in managing federal lands, each federal agency with statutory or administrative responsibility for management of federal lands shall, to the extent practicable and as permitted by law, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and avoid adversely affecting the physical integrity of such sacred sites. No sacred sites were identified during the scoping or planning process, and sacred sites were therefore not included in the impact assessment of this EA.

## **ENVIRONMENTAL JUSTICE**

Executive Order 12898 requires each federal agency to achieve environmental justice as part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects, including social or economic effects, of programs, policies, and activities on minority populations and low-income populations of the United States. This EA evaluated the environmental, social, and economic impacts on minority and low-income populations in the impact assessment of the alternatives.

## **STATE, AREA-WIDE, AND LOCAL PLAN AND PROGRAM CONSISTENCY**

Agencies must consider the consistency of a proposed action with approved state and local plans and laws. This EA was prepared with extensive information from local planning agencies.

## **FLOODPLAIN MANAGEMENT**

If a federal agency program will affect a floodplain, the agency must consider alternatives to avoid adverse effects in the floodplain or to minimize potential harm. Executive Order 11988 requires federal agencies to evaluate the potential effects of any actions they might take in a floodplain and to ensure that planning, programs, and budget requests reflect consideration of flood hazards and floodplain management. The alternatives would not affect floodplain management as compared to the No Action Alternative.

## **WETLANDS PROTECTION**

Executive Order 11990 authorizes federal agencies to take actions to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands when undertaking federal activities and programs. Any agency considering a proposal that might affect wetlands must evaluate factors affecting wetland quality and survival. These factors should include the proposal's effects on public health, safety, and welfare due to modifications in water supply and water quality; maintenance of natural ecosystems and conservation of flora and fauna; and other recreational, scientific, and cultural uses. The alternatives would not affect wetlands as compared to the No Action Alternative.

## **WILD AND SCENIC RIVERS ACT**

The Wild and Scenic Rivers Act designates qualifying free-flowing river segments as wild, scenic, or recreational. The Act establishes requirements applicable to water resource projects affecting wild, scenic, or recreational rivers within the National Wild and Scenic Rivers System, as well as rivers designated on the National Rivers Inventory. Under the Act, a federal agency may not assist in the construction of a water resources project that would have a direct and adverse effect on the free-flowing, scenic, and natural values of a wild or scenic river. If the project would affect the free-flowing characteristics of a designated river or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area, such activities should be undertaken in a manner that would minimize adverse impacts and should be developed in consultation with the National Park Service. None of the EA alternatives would affect flows in wild and scenic portions of rivers.

## **FARMLAND PROTECTION POLICY ACT AND FARMLAND PRESERVATION**

Two policies require federal agencies to include assessments of the potential effects of a proposed project on prime and unique farmland. These policies are the Farmland Protection Policy Act of 1981 and the Memoranda on Farmland Preservation, dated August 30, 1976, and August 11, 1980, respectively, from the U.S. Council on Environmental Quality. Under requirements set forth in these policies, federal agencies must determine the effects before taking any action that could result in converting designated prime or unique farmland for nonagricultural purposes. If implementing a project would adversely affect farmland preservation, the agencies must consider alternatives to lessen those effects. Federal agencies also must ensure that their programs, to the extent practicable, are compatible with state, local, and private programs to protect farmland. No specific consultation concerning farmlands was conducted during preparation of this EA because the alternatives would not affect agricultural lands as compared to the No Action Alternative.

## **CLEAN AIR ACT**

The Federal Clean Air Act (CAA) was enacted to protect and enhance the nation's air quality in order to promote public health and welfare and the productive capacity of the nation's population. The CAA requires an evaluation of any federal action to determine its potential impact on air quality in the project region. Coordination is required with the appropriate local air quality management district as well as with the Environmental Protection Agency (EPA). This coordination would determine whether the project conforms to the Federal Implementation Plan and the State Implementation Plan (SIP).

Section 176 of the CAA (42 U.S.C. Section 7506(c)) prohibits federal agencies from engaging in or supporting in any way an action or activity that does not conform to an applicable SIP. Actions and activities must conform to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and in attaining those standards expeditiously. EPA promulgated conformity regulations (codified in 40 CFR Section 93.150 et seq.).

The alternatives assume that current practices to control dust and soil erosion on lands that are seasonally fallowed would continue and that the land use agencies would continue to work with the

air quality districts. Therefore, it assumed that no air quality impacts would occur due to the alternatives as compared to the No Action Alternative.

## **SAFE DRINKING WATER ACT**

The Safe Drinking Water Act (SDWA) (PL 99-339) became law in 1974 and was reauthorized in 1986 and again in August 1996. Through the SDWA, Congress gave the EPA the authority to set standards for contaminants in drinking water supplies. Amendments to the SDWA provided more flexibility, more state responsibility, and more problem prevention approaches. The law changed the standard-setting procedure for drinking water and established a State Revolving Loan Fund to help public water systems improve their facilities, to ensure compliance with drinking water regulations, and to support state drinking water program activities.

Under the SDWA provisions, the California Department of Health Services has the primary enforcement responsibility. The California Health and Safety Code establishes this authority and stipulates drinking water quality and monitoring standards. To maintain primacy, a state's drinking water regulations cannot be less stringent than the federal standards. The analysis of the EA alternatives as compared to the SDWA requirements indicated that there would be no changes in compliance as compared to the No Action Alternative.

## **CLEAN WATER ACT**

The Clean Water Act (CWA) gave the EPA the authority to develop a program to make all waters of the United States "fishable and swimmable." This program has included identifying existing and proposed beneficial uses and methods to protect and/or restore those beneficial uses. The CWA contains many provisions, including provisions that regulate the discharge of pollutants into water bodies. The discharges may be direct flows from point sources, such as an effluent from a wastewater treatment plant, or a non-point source, such as eroded soil particles from a construction site. The analysis of the EA alternatives as compared to the CWA requirements indicated that there would be no changes in compliance as compared to the No Action Alternative.